

**Notice of Allowability**

Application No.

10/085,612

Applicant(s)

GUIDA ET AL.

Examiner

Art Unit

Diana B. Johannsen

1634

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to the After Final Amendment filed Jan. 7, 2005 and the interview of Feb. 2, 2005.
2. ☒ The allowed claim(s) is/are 17-18, 22, 25-26, 35-44.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                      |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>part of 0105</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment  |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|   | 9. <input type="checkbox"/> Other _____.   |

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Melodie W. Henderson on February 2, 2005.

It is noted that the After Final Amendment filed January 7, 2005 has been entered, and that claims 17-18, 22, 25-26, and 35-44 as presented in that amendment and as further amended by the below examiner's amendment are now allowed.

#### ***Claim Numbering***

2. It is noted that the numbering of claims in the After Final Amendment of January 7, 2005 is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Accordingly, the second set of claims numbered as claims 42-44 (see claims 42-44 at pages 5-6 of Applicant's amendment, following claim 44 on page 5) have been renumbered as claims 45-47. It is noted that these claims are duplicates and have now been canceled (see below).

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3. Additionally, in accordance with 37 C.F.R. 1.126, allowed claims 17-18, 22, 25-26, and 35-44 will be renumbered as claims 1-15, respectively (see MPEP 608.01(j)). It is noted that original claim numbers are employed in the below examiner's amendment.

***Examiner's Amendment***

**4. Amend the claims as follows:**

In claim 25, line 7, after "selecting a treatment" insert--for said cancer patient--.

In claim 35, line 3, after "sample using" insert--primer pair--.

In claim 35, line 4, after "NO:18" delete "as the PCR primer pair".

In claim 39, line 1, after "method of" insert—claim--.

In claim 40, line 1, after "method of" insert—claim--.

In claim 41, line 1, after "method of" insert—claim--.

In claim 42, line 1, after "method of" insert—claim--.

In claim 43, line 5, after "sample using" insert--primer pair--.

In claim 43, line 6, after "NO:18" delete "as the PCR primer pair".

**5. Cancel claims 45-47.**

***Substance of the Interview of February 2, 2005***

6. The examiner contacted Applicant's representative by phone to propose additional minor amendments to the claims that would further clarify Applicant's invention and place the application in condition for allowance. Applicant's representative authorized the proposed changes, and therefore claims 17-18, 22, 25-26, and 35-44 are allowed. Applicant's representative also authorized the cancellation of the second (duplicate) set of claims identified as claims 42-44 (which will be renumbered as claims 45-47).

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diana B. Johannsen whose telephone number is 571/272-0744. The examiner can normally be reached on Monday-Friday, 7:30 am-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, W. Gary Jones can be reached at 571/272-0745. The fax phone number for the organization where this application or proceeding is assigned is 571/273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, reading "Diana B. Johannsen". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Diana B. Johannsen  
Primary Examiner  
Art Unit 1634  
February 2, 2005